

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BARCO, INC., ET AL.,) (
PLAINTIFFS,) (CIVIL ACTION NO.
) (2:23-CV-521-JRG-RSP
VS.) (MARSHALL, TEXAS
YEALINK (USA) NETWORK) (
TECHNOLOGY CO., LTD., ET AL.,) (NOVEMBER 15, 2024
DEFENDANTS.) (9:01 A.M.

MOTION HEARING

BEFORE THE HONORABLE ROY S. PAYNE

UNITED STATES MAGISTRATE JUDGE

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Honorable Robert W. Schroeder III
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(Proceedings recorded by mechanical stenography, transcript
produced on a CAT system.)

09:01:38 1 COURT SECURITY OFFICER: All rise.

09:01:42 2 THE COURT: Good morning. Please be seated.

09:01:55 3 For the record, we're here for the motion hearing
09:02:02 4 in Barco, Inc. versus Yealink Network Technology, et al.,
09:02:08 5 which is Case No. 2:23-521 on our docket.

09:02:12 6 Would counsel state their appearances for the
09:02:15 7 record?

09:02:15 8 MR. GORHAM: Good morning, Your Honor. Tom Gorham
09:02:18 9 on behalf of Barco. With me here today is Erik Halverson.
09:02:22 10 Barco's ready to proceed, Your Honor.

09:02:23 11 THE COURT: All right. Thank you, Mr. Gorham.

09:02:25 12 MR. GOTHIA: Good morning, Your Honor. Forrest
09:02:28 13 Gothia with Dentons US for the Yealink Defendants. With me
09:02:31 14 is my colleague, Stephen Yang, also of Dentons US. We are
09:02:35 15 ready to proceed.

09:02:36 16 THE COURT: All right. Thank you, Mr. Gothia.

09:02:37 17 We're here on the Plaintiffs' motion, so I'll turn
09:02:41 18 it over first to Plaintiff.

09:02:43 19 MR. HALVERSON: Good morning, Your Honor.

09:02:43 20 THE COURT: Good morning.

09:02:54 21 MR. HALVERSON: Barco filed its complaint almost a
09:02:56 22 year ago to the day, November 14th, 2023.

09:03:00 23 In its complaint, it alleges that certain Yealink
09:03:04 24 products infringe -- infringe at least Claim 1 of six
09:03:08 25 different U.S. patents. Yealink filed its first answer

09:03:12 1 approximately four months later, denying infringement of
09:03:16 2 all claims.

09:03:18 3 Yealink amended its answer, withdrawing all of
09:03:20 4 its counterclaims, in June -- on June 7th of this year,
09:03:25 5 and then filed a second amended answer on September 20th
09:03:28 6 of this year, admitting that it infringes Claim 1 but
09:03:32 7 denying that it infringes all other claims in the asserted
09:03:35 8 patents.

09:03:35 9 We're here today because Barco seeks basic
09:03:40 10 technical discovery into the development of the accused
09:03:44 11 products and the operation of the accused products.
09:03:46 12 Yealink has refused to provide that discovery.

09:03:48 13 The parties met and conferred in June and again in
09:03:53 14 August, and at each meet and confer, Yealink continues to
09:03:59 15 say documents are coming, information is coming, and at no
09:04:02 16 point in time has that information actually come.

09:04:04 17 THE COURT: Mr. Halverson, is it your reading of
09:04:10 18 the second amended answer that it does deny infringement of
09:04:17 19 other claims of the asserted patents or just that it only
09:04:23 20 admits infringement of the one specified claim?

09:04:28 21 MR. HALVERSON: There is a sentence at the end of
09:04:30 22 each paragraph in each count where Yealink says Yealink did
09:04:34 23 denies all other allegations. And in the complaint, the
09:04:37 24 paragraphs that are being denied expressly say Barco
09:04:40 25 accuses Yealink of infringing at least Claim 1 of the XXX

09:04:45 1 patent. And so my read of that answer is, Your Honor,
09:04:48 2 yes, they are denying infringement of all of the other
09:04:50 3 claims.

09:04:51 4 THE COURT: And your infringement contentions
09:04:54 5 specifically call out other claims of each of the asserted
09:05:00 6 patents as infringed?

09:05:00 7 MR. HALVERSON: That's correct, Your Honor, both
09:05:03 8 in the cover pleading, as well as the charts, there are
09:05:05 9 approximately a hundred or so claims that are expressly
09:05:08 10 accused of infringement in this case.

09:05:10 11 THE COURT: What is your response to the argument
09:05:16 12 that your damages would be the same regardless of how many
09:05:21 13 claims of a patent are infringed, and, therefore, it's not
09:05:28 14 relevant?

09:05:29 15 MR. HALVERSON: So there are some claims in the
09:05:31 16 case that involve multiple products. There are some system
09:05:34 17 claims that implicate both the dongle that is accused of
09:05:39 18 infringement, the thing that plugs into the laptop, as well
09:05:42 19 as a base station that sits at the front of the room during
09:05:44 20 the presentation. And so there are differences in the
09:05:48 21 scope of accused products across the different claims of
09:05:51 22 the different patents.

09:05:52 23 Now, I agree that damages -- you cannot collect
09:05:57 24 more damages for infringement of a dependent claim.
09:06:00 25 There's -- there's no doubt about that.

09:06:01 1 But I think what's perhaps missing from that
09:06:04 2 analysis is Barco has elected to challenge some claims in
09:06:10 3 an invalidity proceeding at the Patent Office, including
09:06:13 4 the claims it admits of infringement. But it does not
09:06:16 5 challenge all of the claims of the asserted patents.

09:06:19 6 THE COURT: So there -- what you're saying is that
09:06:22 7 all of the claims as to which it has expressly admitted
09:06:29 8 infringement in the second amended answer are being
09:06:32 9 challenged in the IPR?

09:06:35 10 MR. HALVERSON: That's correct, Your Honor.

09:06:37 11 THE COURT: All right.

09:06:37 12 MR. HALVERSON: And there are other claims that
09:06:40 13 are expressly identified in the infringement contentions as
09:06:45 14 infringed and in those charts that are not being accused of
09:06:48 15 infringement -- or, excuse me, that are not being
09:06:51 16 challenged in those IPR proceedings.

09:06:54 17 THE COURT: All right. And tell me, are there
09:06:59 18 other products that Yealink makes that you believe
09:07:05 19 infringe?

09:07:06 20 MR. HALVERSON: Beyond the ones that are
09:07:11 21 identified in the contentions?

09:07:12 22 THE COURT: Beyond the two that are admitted in
09:07:17 23 the second amended answer.

09:07:18 24 MR. HALVERSON: Yes, Your Honor, there are. There
09:07:20 25 are other products in the contentions that are not admitted

09:07:22 1 to infringe in Yealink's second amended answer.

09:07:26 2 THE COURT: All right. And you have discussed
09:07:29 3 with Defense counsel getting technical discovery as to
09:07:35 4 those products?

09:07:36 5 MR. HALVERSON: All of the products, yes, Your
09:07:40 6 Honor.

09:07:40 7 THE COURT: All right. I'm going to give the
09:07:45 8 Defendants a chance to address this general issue, but when
09:07:49 9 we get back to the motion itself, I'd like to approach it
09:07:57 10 as specifically as possible. In other words, I'm going to
09:08:03 11 want you to identify an interrogatory that you believe is
09:08:10 12 not properly responded to and take that up so that we can
09:08:16 13 do as specific a resolution of these issues as possible.

09:08:22 14 But I want to hear from the Defense on this
09:08:26 15 general issue before we get into the specifics of your
09:08:30 16 motion.

09:08:31 17 So thank you, Mr. Halverson.

09:08:32 18 MR. HALVERSON: Thank you, Your Honor.

09:08:33 19 MR. YANG: Good morning, Your Honor.

09:08:38 20 Your Honor, this case is now a damages case.

09:08:44 21 Defendants have been trying to streamline and simplify this
09:08:48 22 case by admitting infringement to all six of the asserted
09:08:53 23 patents. Not only have they admitted infringement, they
09:08:56 24 removed the infringement product from the U.S. market and
09:09:01 25 recalled everything.

09:09:02 1 THE COURT: Is it your intent to admit
09:09:06 2 infringement of all asserted claims?

09:09:10 3 MR. YANG: Your Honor, I want to address that real
09:09:12 4 quickly. First of all, we admitted what was in the
09:09:15 5 operative complaint, and that complaint only has Claim 1.

09:09:20 6 As for all the claims in the -- in the
09:09:23 7 contentions, I want to note a few things. First of all,
09:09:27 8 it's not necessary that Defendants admit to every single
09:09:33 9 one of those 109, I think, claims because they really have
09:09:36 10 no effect on damages. Damages do not change --

09:09:42 11 THE COURT: Well, I can tell you that you're not
09:09:44 12 going to get anywhere with admitting only infringement of
09:09:51 13 claims that you're contending are invalid and not admitting
09:09:57 14 infringement of claims to which you don't have an
09:10:02 15 invalidity defense. I do not accept that as mooted the
09:10:09 16 liability issue.

09:10:09 17 MR. YANG: I understand. In this case, however,
09:10:11 18 we actually do not have an invalidity defense based on
09:10:16 19 prior art -- based on 102/103.

09:10:19 20 Now, Barco mentioned the IPR proceeding. That is
09:10:22 21 a different proceeding before a different tribunal on a
09:10:26 22 different schedule.

09:10:27 23 In this case, we -- we are exploring potentially
09:10:30 24 some claim construction issues, but we actually do not
09:10:34 25 intend to present a full invalidity challenge.

09:10:37 1 THE COURT: I understand that. But it doesn't
09:10:39 2 matter to me which forum invalidity is being asserted in.
09:10:45 3 It's just that it shows that there is relevance to the
09:10:51 4 discovery in support of infringement of other claims.

09:10:56 5 Your argument that the discovery about technical
09:11:04 6 documentation of -- is irrelevant is belied by the fact
09:11:13 7 that if the claims that you have admitted infringement of
09:11:19 8 are invalidated, then that the question of infringement of
09:11:27 9 the other asserted claims becomes front and center.

09:11:31 10 MR. YANG: I understand that, Your Honor. And I
09:11:34 11 think in that case, we're looking at a speculation because
09:11:38 12 we do not know how the PTAB will rule.

09:11:40 13 And in this case, we have trial in September. We
09:11:44 14 will not know how the PTAB will rule. So if we want
09:11:48 15 clarity, and I absolutely see where the Court is coming
09:11:51 16 from, maybe the thing to do is we can stay the case until
09:11:55 17 there is resolution from the PTAB so we don't waste a lot
09:12:00 18 resources, a lot of time from the parties, from the Court,
09:12:04 19 and from the jury on this really full-blown international
09:12:08 20 discovery that may or may not be relevant, because come
09:12:12 21 September, Your Honor, we will be in front of this Court,
09:12:15 22 we will have a jury, and the jury instructions will be
09:12:19 23 you're here to hear evidence -- technical evidence on all
09:12:22 24 these dependent claims, but at the same time, Defendants
09:12:26 25 have admitted infringement to each of the asserted patents.

09:12:32 1 Your Honor, I'm not sure how that's going to work
09:12:34 2 out. And at that time in September, we will not have a
09:12:37 3 resolution from the PTAB.

09:12:40 4 THE COURT: You know, it -- I can tell you the way
09:12:42 5 it will work out. The Plaintiff will have to decide which
09:12:44 6 claims they want to present to the jury, and if they only
09:12:49 7 present claims as to which there is a -- an IPR pending,
09:12:59 8 then that's their decision.

09:13:01 9 But -- so what -- what is confusing about that?

09:13:03 10 MR. YANG: Because, Your Honor, we've already
09:13:06 11 admitted to infringement of each of the patents-in-suit.
09:13:08 12 So really, the only question left is --

09:13:11 13 THE COURT: You know, you don't infringe a patent.
09:13:13 14 You infringe a claim. You've admitted to infringement of
09:13:17 15 certain claims and denied infringement of other claims.

09:13:21 16 So if all the Plaintiff wants to proceed on is the
09:13:27 17 claims that you have admitted infringement of, I agree, the
09:13:31 18 jury is not going to be asked to determine that.

09:13:37 19 But why should the Court limit them to those
09:13:41 20 claims at this stage?

09:13:41 21 MR. YANG: So, Your Honor, I think procedurally, I
09:13:45 22 don't think we have denied that we infringe other claims.
09:13:49 23 We admit and deny what's in the complaint. If Plaintiffs
09:13:53 24 want to amend their complaint, and this something I have
09:13:56 25 brought up before, I think they can, then we have something

09:13:59 1 that we can admit or deny.

09:14:01 2 THE COURT: Their complaint accuses you of
09:14:05 3 infringing at least the designated claim.

09:14:06 4 What is your basis for asserting that those claims
09:14:14 5 are the only claims that they're entitled to go forward on?

09:14:18 6 MR. YANG: I'm not saying that's the only claim
09:14:22 7 they're entitled to go forward on. I think, Your Honor,
09:14:24 8 again, we're trying to streamline the case by taking
09:14:28 9 liability out of play.

09:14:29 10 THE COURT: My impression at this stage is that
09:14:32 11 you're trying to prevent discovery into the technical
09:14:37 12 aspects of your products because if you really want to take
09:14:42 13 the technical discovery off the board, then admit
09:14:49 14 infringement of all of the asserted claims, and then I
09:14:53 15 agree with you that that greatly reduces the technical
09:15:01 16 discovery that they'd be entitled to.

09:15:02 17 MR. YANG: Your Honor, if I may just have two more
09:15:05 18 points on that?

09:15:05 19 THE COURT: All right.

09:15:06 20 MR. YANG: All right. So, first of all, we do not
09:15:09 21 think it has legal effect on damages. But, second, we
09:15:13 22 don't know if that will really change everything because
09:15:17 23 Plaintiffs are also saying, well, we have willfulness in
09:15:20 24 the case, and because we have willfulness, we're also
09:15:22 25 entitled to the full discovery of all of our research and

09:15:26 1 development documents, of all of our technical documents.

09:15:29 2 We do not agree with that.

09:15:31 3 And the third point, Your Honor, Plaintiffs are
09:15:35 4 already using our admission in the case they filed in
09:15:38 5 Europe about two weeks after we admitted infringement here.
09:15:43 6 They filed a case in Brussels. In the complaint, they're
09:15:46 7 using our admission to further that case in mentioning that
09:15:50 8 Yealink has admitted to infringing U.S. patents.

09:15:55 9 THE COURT: What's wrong with that?

09:15:56 10 MR. YANG: Well, again, if we are to admit to all
09:15:58 11 claims, which, again, I don't think makes a difference on
09:16:01 12 damages, we're concerned because we don't know how that
09:16:03 13 will be used in the European proceeding.

09:16:07 14 THE COURT: I understand that. And I'm certainly
09:16:10 15 not saying that you have any obligation to admit
09:16:13 16 infringement at all. But if you want to prevent technical
09:16:17 17 discovery, then you have to really make it irrelevant. And
09:16:24 18 a partial admission or an admission of infringement of only
09:16:28 19 certain of the asserted claims doesn't get you there.

09:16:35 20 MR. YANG: So, Your Honor, we actually did not
09:16:37 21 challenge all of the asserted claims in the IP -- well, all
09:16:42 22 patents in the IPRs were challenged for.

09:16:44 23 So my question now is, okay, well, let's say
09:16:48 24 tomorrow somebody else challenges in the PTAB or elsewhere
09:16:51 25 the remaining two patents, are we going to be held liable

09:16:58 1 just because now Barco has the possibility of losing those
09:17:02 2 claims to invalidity?

09:17:03 3 The point, Your Honor, is we're here. We want to
09:17:06 4 move on. We want to give them the discovery they need for
09:17:09 5 damages for willfulness. And now what they're arguing, I
09:17:14 6 think, is there is this possibility that they may lose some
09:17:19 7 of the patents to invalidity in a different proceeding.

09:17:24 8 But in this case, Your Honor, we believe that does
09:17:27 9 not matter because we're here. This is now a damages case.
09:17:33 10 We're here because we have admitted infringement. We want
09:17:36 11 to move on --

09:17:36 12 THE COURT: Mr. Yang, you keep saying this is now
09:17:39 13 a damages case. You're not hearing me. This is not just a
09:17:43 14 damages case. That's done.

09:17:43 15 MR. YANG: Okay.

09:17:46 16 THE COURT: Until you get to the Federal Circuit,
09:17:49 17 that -- this is not just a damages case.

09:17:51 18 So go ahead.

09:17:53 19 MR. YANG: Well, I understand.

09:17:56 20 One thing I also -- one last thing I wanted to
09:18:00 21 note is Plaintiffs do agree that the only issue left really
09:18:02 22 is damages at this point.

09:18:04 23 THE COURT: Who agrees?

09:18:05 24 MR. YANG: The Plaintiffs agree. We have an email
09:18:08 25 from them, Your Honor, less than 48 hours ago where they

09:18:12 1 said -- they reiterate their belief that this case should
09:18:15 2 be resolvable without extended litigation.

09:18:18 3 They also say that given Yealink's admission of
09:18:21 4 infringement and withdrawal of the accused products from
09:18:25 5 the market, coupled with the closed universe of damages and
09:18:29 6 established license practice for the asserted patent family
09:18:32 7 suggests all that is left for the Court to decide is
09:18:38 8 damages.

09:18:38 9 So, Your Honor, I think there's agreement here
09:18:42 10 that there is a way to streamline this case. And, again,
09:18:45 11 there is no more infringement going on because the products
09:18:49 12 are out of the market.

09:18:50 13 THE COURT: If there is an agreement here, then
09:18:54 14 why am I hearing a dispute?

09:18:55 15 MR. YANG: Your Honor, I thought when they sent us
09:18:59 16 this email, they would agree, and, Your Honor, I must admit
09:19:03 17 I'm a little confused, too, as to why we're here on a
09:19:07 18 motion to compel. It seems that the parties agree at this
09:19:10 19 point, this is a simple case, and all that is left to
09:19:13 20 decide is damages.

09:19:14 21 THE COURT: All right. Do you have a copy of that
09:19:16 22 email?

09:19:16 23 MR. YANG: I do, Your Honor. If I may approach,
09:19:19 24 I'm happy to hand a copy of --

09:19:20 25 THE COURT: You may.

09:19:37 1 MR. YANG: Thank you.

09:20:20 2 THE COURT: Well, I have an impression of what
09:20:27 3 this email is about, but I'll let the Plaintiff respond
09:20:31 4 first before I substitute my own interpretation.

09:20:36 5 Mr. Yang, I'm going to interrupt you to have them
09:20:42 6 respond to this November 13 email.

09:20:45 7 MR. YANG: That's fine. Thank you, Your Honor.

09:20:46 8 THE COURT: Thank you, Mr. Yang.

09:20:49 9 MR. HALVERSON: Your Honor, this email is an
09:20:58 10 effort to elicit settlement discussions. Barco has
09:21:02 11 repeatedly tried to engage Yealink on settlement
09:21:05 12 discussions throughout the biggest portion of this case,
09:21:09 13 both before the complaint was filed and after the complaint
09:21:11 14 was filed. And at no point in time has Yealink engaged at
09:21:15 15 all. That is all this email is.

09:21:19 16 The motion that we're here to -- and I don't mean
09:21:22 17 to jump beyond the email. I know that I was afforded just
09:21:26 18 this opportunity.

09:21:28 19 Is there further questions here, or can I go on?

09:21:30 20 THE COURT: Mr. Halverson, that's my impression of
09:21:32 21 this email, as well, but I wanted to give you an
09:21:37 22 opportunity to interpret it before I did, but...

09:21:40 23 MR. HALVERSON: And perhaps I should have put 408
09:21:43 24 on it, but I think the content of the email is clear what
09:21:45 25 it is attempting to convey to the other side. And so for

09:21:49 1 that oversight, I apologize. But I don't know that this is
09:21:52 2 a proper use of this email or discussion for the Court.

09:22:00 3 THE COURT: All right. Thank you, Mr. Halverson.

09:22:02 4 Mr. Yang, I don't see anything in this email that
09:22:06 5 says that you have taken technical discovery off the table
09:22:17 6 in terms of an issue. This is, I would say, a request for
09:22:29 7 reopening settlement discussions.

09:22:30 8 MR. YANG: Okay. Your Honor, I -- you know, if
09:22:32 9 that is the request for settlement, I apologize. I
09:22:35 10 obviously do not intend to use that in court.

09:22:38 11 The reason I brought that up, Your Honor,
09:22:40 12 because -- is because the email does say that they believe
09:22:43 13 that all that is left for the Court to decide is damages.
09:22:46 14 And we absolutely agree with that.

09:22:48 15 THE COURT: They don't say that actually.

09:22:50 16 It says that it suggests all that is left for the
09:22:55 17 Court to decide is damages. And the -- I think that is an
09:23:10 18 optimistic view of where we are.

09:23:12 19 If you are really saying that all that is left is
09:23:16 20 damages, then you're admitting that all the accused
09:23:21 21 products are infringing.

09:23:24 22 MR. YANG: So, Your Honor, I think we have done
09:23:26 23 that. Earlier, the Court mentioned how many accused
09:23:31 24 products are here in the case.

09:23:33 25 Now, the way the six patents -- the claims are --

09:23:38 1 two of the patents are directed to this what we call a
09:23:41 2 dongle, a wireless presentation pod. And the other four
09:23:46 3 patents are related to a system where this pod -- this
09:23:49 4 presentation pod is a necessary component.

09:23:54 5 So Yealink has admitted infringement. They have
09:23:58 6 removed this presentation pod that is central to infringing
09:24:01 7 all six patents out of the market. And that's what we have
09:24:06 8 in the second amended answer. We admitted, because this
09:24:10 9 presentation pod was in the U.S., that it infringed all six
09:24:16 10 patents.

09:24:16 11 So, Your Honor, there we have admitted that the
09:24:19 12 accused products -- or the accused systems, when they were
09:24:23 13 in the U.S., they have admitted -- they have infringed the
09:24:26 14 patents.

09:24:29 15 THE COURT: It seems to me that the admission that
09:24:32 16 you're making is a very narrow admission that certain
09:24:37 17 products, when operated in certain ways, infringe certain
09:24:44 18 claims and that the -- I don't think the Plaintiffs are
09:24:52 19 required to narrow their case to the extent of the
09:24:56 20 admission that you've made in your second amended answer.
09:25:05 21 And so I am going to order that you respond with discovery
09:25:18 22 about the technical operation of the accused products and
09:25:23 23 about other products that operate in a similar fashion.

09:25:29 24 I haven't -- do you contend that there are no
09:25:32 25 other products that operate in a manner similarly to the

09:25:41 1 ones that -- the two products that are named in the
09:25:45 2 complaint?

09:25:47 3 MR. YANG: Well, Your Honor, I want to be a little
09:25:49 4 careful with that. I think I will have to go back and look
09:25:52 5 at the products a little more closely, but right now in the
09:25:55 6 contentions, those two are the main products. And, of
09:25:59 7 course, those two are the main products in the complaint.

09:26:01 8 THE COURT: Are those the only two products in the
09:26:04 9 contentions? Obviously, I don't have the infringement
09:26:07 10 contentions in the record. What I've got is the complaint.
09:26:11 11 But...

09:26:12 12 MR. YANG: Your Honor, we have -- I believe we
09:26:14 13 have copies of the contentions, but in the contentions,
09:26:18 14 everything was revolved around the presentation pod. But
09:26:22 15 they do name this video bar, this other product in the
09:26:24 16 complaint, and they do name, Your Honor, two other
09:26:28 17 products. But the contentions themselves, most of the
09:26:31 18 contentions are on information and belief, but there are
09:26:34 19 some contentions that does mention the other products.
09:26:41 20 Again, I don't want to unfairly characterize what
09:26:42 21 Plaintiffs have.

09:26:43 22 THE COURT: And have you conceded that the other
09:26:46 23 products that are named in the infringement contentions
09:26:52 24 also infringe the claims that you're conceding the two
09:26:57 25 products infringe?

09:26:58 1 MR. YANG: We have not done that through the
09:27:02 2 second amended complaint, but I think that is something we
09:27:04 3 can certainly look into. Again, these are system claims.
09:27:08 4 The system works when all the components are together.

09:27:12 5 So there are no claims directed to these other
09:27:17 6 products. So specifically, it's when they're all together
09:27:19 7 in a videoconferencing system when the components are
09:27:23 8 there, then there's infringement of the claims.

09:27:28 9 And, Your Honor, if I may just add real quickly, I
09:27:34 10 understand where Plaintiffs are coming from. I understand
09:27:35 11 where the Court is coming from. There are other claims.
09:27:41 12 We do want clarity, I think, Your Honor, for everybody. We
09:27:44 13 want to know what the scope of the case is. And given that
09:27:49 14 there are no damages, we don't know, again, how the PTAB is
09:27:52 15 going to rule, and will not know before trial.

09:27:56 16 Your Honor, may I suggest then the parties can
09:27:58 17 stay the case until there is clarity instead of spending a
09:28:01 18 lot of resources, a lot of money, a lot of time on this
09:28:05 19 full-blown international discovery when there's a chance
09:28:10 20 all of this could be irrelevant? There is no more
09:28:15 21 infringement going on at this point.

09:28:17 22 THE COURT: How do I know that?

09:28:18 23 MR. YANG: Because, again --

09:28:21 24 THE COURT: You identified two products that
09:28:24 25 you've withdrawn from the U.S. market.

09:28:27 1 MR. YANG: No, Your Honor. Sorry, let me clarify.
09:28:30 2 These are system claims. The claims are directed to the
09:28:38 3 system work, if and only if all components are working
09:28:42 4 together. If Yealink sells all components, there's
09:28:47 5 infringement. Yealink has taken a critical component, this
09:28:51 6 presentation pod, out of the case -- out of the U.S.
09:28:53 7 market. They have recalled all remaining inventory as of
09:28:58 8 six months ago. So there is no more system that infringes,
09:29:03 9 Your Honor, four of the six patents-in-suit. And the other
09:29:05 10 two patents-in-suit are directed to this pod itself, which,
09:29:09 11 again, is no longer in the U.S. market.

09:29:12 12 Again, in that email, Plaintiffs also mentioned
09:29:17 13 this is a close universe of damages. So there is no more,
09:29:23 14 at this point, infringement happening. The damages,
09:29:27 15 whatever they may be, are closed. They are frozen. And
09:29:32 16 they will not change no matter, again, how many claims we
09:29:37 17 come back and we address.

09:29:44 18 THE COURT: All right. Well, I will hear from the
09:29:47 19 Plaintiff on whether they agree with you that your
09:29:51 20 withdrawal of those two products from the market ends the
09:29:58 21 possibility of infringement.

09:30:00 22 MR. YANG: And, Your Honor, sorry, we withdrew one
09:30:03 23 product. I just wanted to be absolutely clear with the
09:30:05 24 Court. We withdrew one product. But, again, because that
09:30:09 25 one product is withdrawn, the system is no longer there.

09:30:11 1 THE COURT: All right. And which is the product
09:30:12 2 you withdrew?

09:30:13 3 MR. YANG: It's called a WPP20 and a WPP30
09:30:20 4 presentation pod. We actually have a copy of the Yealink
09:30:25 5 end of sale announcement if the Court would like to see,
09:30:29 6 but that is the dongle or the pod that is -- as counsel has
09:30:35 7 said, the piece that you plug into the computer. That is
09:30:40 8 out of the U.S. market, and that has been recalled. All
09:30:43 9 remaining inventory has been recalled.

09:30:46 10 THE COURT: All right.

09:30:47 11 MR. YANG: Thank you, Your Honor.

09:30:49 12 THE COURT: Thank you, Mr. Yang.

09:30:51 13 MR. HALVERSON: So some of the claims are system
09:30:58 14 claims. Some of the claims are product claims. Product
09:31:01 15 claims are directed towards this WPP20 and WPP30. Given
09:31:06 16 the representation that those two dongle products are no
09:31:11 17 longer offered for sale, the claims directed towards just
09:31:13 18 those products certainly cannot continue to be infringed in
09:31:16 19 the future by Yealink.

09:31:18 20 However, Yealink continues to sell the other
09:31:21 21 products that are identified in the infringement
09:31:22 22 contentions, the meeting bar, the presentation pod, and
09:31:29 23 there's -- there's another base station-type product I'm
09:31:32 24 forgetting the name of. But when Yealink sells those to
09:31:36 25 existing Yealink customers who have already purchased WPP20

09:31:40 1 and WPP30s, that's inducing those customers to create an
09:31:44 2 infringing system in the future.

09:31:46 3 So I don't know that I can agree that all Yealink
09:31:49 4 infringement has been foreclosed just because they've
09:31:52 5 withdrawn these couple of products from the market in the
09:31:54 6 U.S.

09:31:55 7 THE COURT: And what is the status of the IPR, and
09:32:02 8 is it a single IPR that we're talking about?

09:32:04 9 MR. HALVERSON: They filed four in September of
09:32:09 10 2024, 10 months after the complaint was filed.

09:32:13 11 THE COURT: So they have not been instituted?

09:32:14 12 MR. HALVERSON: They have not been instituted.
09:32:16 13 There have been no patent owner papers filed. They are
09:32:19 14 still in their infancy.

09:32:22 15 THE COURT: All right. Clearly, we're not going
09:32:26 16 to stay the case for IPRs that have not even been
09:32:33 17 instituted.

09:32:33 18 All right. What I'd like you to do now is to get
09:32:36 19 specific about the discovery that you contend has not been
09:32:47 20 provided.

09:32:57 21 MR. HALVERSON: So I can do it out of the motion,
09:32:59 22 Your Honor, or I also have hard copies of the discovery
09:33:03 23 requests and responses in their entirety. Do you have a
09:33:05 24 preference?

09:33:06 25 THE COURT: I guess if you have hard copies

09:33:09 1 available here, that would be helpful.

09:33:24 2 MR. HALVERSON: May I approach?

09:33:25 3 THE COURT: Yes.

09:33:25 4 MR. HALVERSON: So, Your Honor, what you've been
09:33:34 5 handed are Defendants' responses and objections to the 14
09:33:39 6 interrogatories that have been filed in this case.

09:33:42 7 And so in our motion, we specifically identify 1,
09:33:48 8 4, 7, 8, 11, 12, and 13. And I think while we contend that
09:33:56 9 discovery into all of the interrogatories is proper, there
09:34:00 10 are obviously objections lodged and -- at its core, what
09:34:05 11 we're really getting at is what is in Interrogatory No. 8,
09:34:11 12 which is: Describe in detail the research, design, and
09:34:15 13 development process undertaken by Yealink to develop each
09:34:20 14 accused product, including the dates over which that
09:34:23 15 happened and the source of information that was relied upon
09:34:26 16 in responding to this interrogatory.

09:34:28 17 Now, as part of that, all of the documents that
09:34:32 18 Yealink would look at to prepare that interrogatory should
09:34:35 19 be produced.

09:34:37 20 In the DCO in this case, Yealink agreed that it
09:34:41 21 would produce all relevant documents. It has not done so.
09:34:46 22 And so we have a dichotomy between -- or not dichotomy, a
09:34:51 23 parallel between the interrogatories which warrant a
09:34:55 24 written response, as well as the document production that
09:34:58 25 is lacking in this case.

09:35:00 1 THE COURT: Now, a part of their response is that
09:35:06 2 the accused products were already on the market at the time
09:35:10 3 the asserted patents issued, and, therefore, the design and
09:35:18 4 development process is not relevant.

09:35:22 5 What is your response to that?

09:35:24 6 MR. HALVERSON: So to the extent the design and
09:35:27 7 development process, the documents that Yealink created in
09:35:31 8 that process say this is Barco's product, we must copy
09:35:36 9 Barco's product, or anything remotely related to that, that
09:35:40 10 is highly relevant to the willful infringement allegations
09:35:43 11 that are at issue in this case.

09:35:44 12 THE COURT: Of course, if that is what you're
09:35:49 13 after, then that is what you should request, not all
09:35:54 14 documents because there might be some subset of relevant
09:35:56 15 documents.

09:35:57 16 MR. HALVERSON: So in addition to the bases tied
09:36:02 17 to willful infringement, the changes that were made to the
09:36:06 18 product as the product was developed is relevant to the
09:36:08 19 actual infringement analysis as well as the damages
09:36:11 20 analysis.

09:36:11 21 To the extent Yealink tried to develop a product
09:36:15 22 that designed around Barco's product -- or, excuse me,
09:36:19 23 Barco's patent portfolio and was unable to do that, that's
09:36:22 24 relevant to this case.

09:36:24 25 THE COURT: And if the patents had not issued yet,

09:36:27 1 how could they be trying to design around them?

09:36:32 2 MR. HALVERSON: I'm not sure, Your Honor. I think
09:36:33 3 that is part of what we would need to see in discovery.
09:36:36 4 While what comes out of discovery may not be admissible,
09:36:39 5 may not actually prove something that's at issue in this
09:36:42 6 case, it is all relevant to the issues that are at issue in
09:36:45 7 this case.

09:36:45 8 Now, we certainly don't need all documents by any
09:36:48 9 stretch of the imagination. To the extent there are
09:36:50 10 duplicative documents or, you know, different iterations
09:36:54 11 that don't evolve on each other of the same document, we're
09:36:58 12 not looking for a data dump of terabytes of data.

09:37:02 13 However, thus far, we've gotten absolutely
09:37:04 14 nothing. And because of that, we're not really sure how
09:37:06 15 else to tailor these requests beyond asking for these
09:37:10 16 development documents.

09:37:13 17 THE COURT: Uh-huh. What is your understanding or
09:37:18 18 belief as to when the accused products were first marketed
09:37:26 19 by Yealink?

09:37:27 20 MR. HALVERSON: So the WPP30 is a recent release.
09:37:34 21 I don't have the date off the top of my head.

09:37:37 22 THE COURT: So you think it's after the issuance
09:37:39 23 of your patents?

09:37:40 24 MR. HALVERSON: I don't want to speculate. I
09:37:42 25 don't know. But I do know that it was a more recent

09:37:44 1 release than the WPP20, which I am more confident was
09:37:50 2 before the product -- or the patents issued.

09:37:58 3 THE COURT: And did -- does Barco have a patent
09:38:02 4 practicing product?

09:38:04 5 MR. HALVERSON: It does, Your Honor. It has a
09:38:08 6 pretty robust portfolio of products sold all throughout the
09:38:11 7 world. It is at the risk of -- go ahead, Your Honor.

09:38:16 8 THE COURT: That you contend practice the asserted
09:38:20 9 patents?

09:38:20 10 MR. HALVERSON: Correct. And that Barco contends.
09:38:23 11 Barco marks on its patent website which patents practice
09:38:28 12 which of its products and has for a number of years.

09:38:35 13 THE COURT: All right.

09:38:37 14 MR. HALVERSON: And so that was -- that was No. 8.
09:38:39 15 And I don't want to shortchange the other requests, as
09:38:46 16 well.

09:38:46 17 I would note that the sales data that has been
09:38:49 18 produced thus far is only for a subset of the accused
09:38:52 19 products. We have only gotten sales data for the two
09:38:55 20 dongle products, the WPP20 and the WPP30, despite
09:39:00 21 Plaintiff -- or Defendants' acknowledgement today that
09:39:02 22 these other base station products are also part of the
09:39:05 23 case.

09:39:06 24 THE COURT: And is there an interrogatory that
09:39:09 25 specifically addresses the sales data?

09:39:12 1 MR. HALVERSON: That would be No. 1, Your Honor.

09:39:16 2 I would say No. 1 and No. 3.

09:39:19 3 And No. 3 is the one where -- and I don't want to
09:39:22 4 read it because it is marked as highly confidential,
09:39:25 5 outside counsels' eyes only. However, 3 is where they
09:39:29 6 provide a subset of the damages data that would be at issue
09:39:33 7 in this case.

09:39:45 8 THE COURT: And do you have a date range in your
09:39:52 9 sales data request?

09:39:56 10 MR. HALVERSON: In the request? No. As part of
09:40:00 11 the discovery process, we did meet and confer about a date
09:40:03 12 range, and that's how we arrived at the 18 through 24
09:40:08 13 range.

09:40:08 14 The patents, I believe, issued in 2020 or later,
09:40:13 15 and so what we were looking for with the couple of years
09:40:16 16 before the issuance of the patent was to see trendline data
09:40:19 17 on how the sales were progressing.

09:40:26 18 Actually this shows the answer to your prior
09:40:31 19 question about when the WPP30 was released, and so that was
09:40:35 20 decidedly after the earliest patent in this case issued.

09:40:39 21 THE COURT: And are you saying that the Defendant
09:40:40 22 agreed to produce access data beginning in 2018 or that you
09:40:46 23 agreed that -- or you limited your request to that?

09:40:50 24 MR. HALVERSON: I would say that the parties
09:40:54 25 coalesced on an understanding that sales data from 2018

09:40:59 1 onward would be appropriate. I'm not sure that either one
09:41:02 2 of us mandated something, but we both are in agreement that
09:41:07 3 that's an appropriate range of data to provide.

09:41:10 4 Your smile makes me think I'm not answering your
09:41:13 5 question. I'm not trying to be cute.

09:41:17 6 THE COURT: I'm smiling because lawyers use the
09:41:22 7 word "agree" so improperly. I hear that from both sides
09:41:25 8 all the time. The other side has conceded or agreed
09:41:28 9 something, and then the other side gets up and says no.

09:41:31 10 So when I hear agree, it raises a red flag. Show
09:41:38 11 me.

09:41:39 12 MR. HALVERSON: Something that says the agreement?

09:41:41 13 THE COURT: Yeah.

09:41:41 14 MR. HALVERSON: I won't speak for Yealink. Barco
09:41:45 15 is okay only receiving sales data from 2018 onward.

09:41:48 16 THE COURT: All right. I understand what a
09:41:52 17 position is, and it's different from an agreement, but...

09:41:54 18 MR. HALVERSON: Understood, Your Honor.

09:41:55 19 THE COURT: All right.

09:41:58 20 MR. HALVERSON: And then -- sorry, last on the
09:42:00 21 interrogatories themselves, there are a number of
09:42:02 22 interrogatories where the response invokes Rule 33(d).
09:42:08 23 Documents have not been produced or identified in the
09:42:11 24 response sufficient to respond to those interrogatories.
09:42:15 25 Yealink's answer saying we will give you documents or we

09:42:18 1 have given you documents is deficient because nobody can
09:42:24 2 ascertain the response, which is contrary to the rule
09:42:26 3 itself, which says, look, if the answer to this
09:42:29 4 interrogatory can be gleaned equally by both sides from
09:42:33 5 just looking at the documents, I don't have to type it out.

09:42:36 6 However, there are no documents identified or
09:42:38 7 produced from which an answer could be gleaned for those
09:42:43 8 responses.

09:42:46 9 THE COURT: All right. You talked specifically
09:42:49 10 about Interrogatory 8 and Interrogatory 1. I know you also
09:42:55 11 mentioned 4, 7, and 11 through 13. Is -- if you have a
09:43:03 12 specific argument on those others, I would like to hear it
09:43:08 13 before I turn it over to the Defendants.

09:43:10 14 MR. HALVERSON: So Interrogatory No. 4 requests
09:43:13 15 facts and circumstances surrounding any license agreements
09:43:17 16 that Yealink has entered into. And so that concerns any --
09:43:24 17 sorry, go ahead.

09:43:25 18 THE COURT: It's much --

09:43:26 19 MR. HALVERSON: I'm sorry, Your Honor.

09:43:26 20 THE COURT: It's much broader than license
09:43:28 21 agreements. Is license agreements all you're really
09:43:31 22 looking for from No. 4?

09:43:33 23 MR. HALVERSON: License agreements and settlement
09:43:34 24 agreements, to the extent any settlement agreements exist,
09:43:36 25 yes.

09:43:37 1 THE COURT: Okay. All right. I'll consider 4
09:43:43 2 with regard to license and settlement agreements.

09:43:46 3 MR. HALVERSON: 7 requests an identification of
09:43:49 4 individuals who are most knowledgeable about the design and
09:43:52 5 development of the accused products.

09:43:55 6 Yealink's response to Interrogatory 7 on the meet
09:44:00 7 and confers has been we'll let you identify the right
09:44:02 8 people based on the documents that we are providing.

09:44:05 9 We don't have any documents from which we could
09:44:08 10 identify those people, and whether or not the documents
09:44:11 11 themselves identify an individual does not let Barco know
09:44:16 12 whether or not those individuals are the most
09:44:18 13 knowledgeable. Oftentimes the author of a document may not
09:44:20 14 be the person who really owns the information of that
09:44:23 15 document.

09:44:30 16 THE COURT: Did Yealink serve on you disclosures
09:44:32 17 that identified persons with knowledge?

09:44:35 18 MR. HALVERSON: They -- or they did serve 26(a)(1)
09:44:41 19 disclosures, yes.

09:44:43 20 THE COURT: And do those identify persons with
09:44:45 21 knowledge?

09:44:45 22 MR. HALVERSON: So those do identify persons with
09:44:51 23 knowledge. Our request seeks an identification of three
09:44:55 24 individuals so that we can test whether or not there might
09:44:58 25 be somebody else who has other knowledge, additional

09:45:00 1 knowledge, or different knowledge. Whereas, Yealink's
09:45:04 2 26(a)(1)s only identify -- I believe it's one individual on
09:45:07 3 the technical side of things and one individual on the
09:45:10 4 financial side of things.

09:45:11 5 THE COURT: I don't see any reference to three
09:45:15 6 people in your Interrogatory No. 7.

09:45:29 7 Is that something that developed during the meet
09:45:32 8 and confer process?

09:45:32 9 MR. HALVERSON: No, Your Honor. That is a -- I
09:45:44 10 apologize.

09:45:46 11 So I was thinking of -- I was conflating Rog No. 5
09:45:50 12 and Rog No. 7.

09:45:52 13 THE COURT: All right.

09:45:52 14 MR. HALVERSON: Where Rog No. 5, we -- or we
09:45:55 15 specifically asked for a finite number of individuals, Rog
09:45:59 16 No. 7 is admittedly a little broad. However, three
09:46:05 17 individuals, I think, would be sufficient to cover that.

09:46:13 18 THE COURT: So that would be three people with --
09:46:17 19 who were responsible for design, development, et cetera?

09:46:21 20 MR. HALVERSON: Correct, Your Honor.

09:46:40 21 THE COURT: All right.

09:46:40 22 MR. HALVERSON: And then for 11, 12, and 13, we're
09:46:45 23 simply asking for any sort of response. Thus far the
09:46:49 24 response that you see in the document in front of you is
09:46:51 25 simply that Yealink's investigation is ongoing. This case

09:46:55 1 has been ongoing for a year. We need some information
09:46:59 2 about what it is that supports Yealink's defenses, any
09:47:10 3 alleged non-infringing alternatives, as well as the factual
09:47:18 4 bases for any 112 theories of invalidity.

09:47:22 5 THE COURT: You know, the main function of
09:47:25 6 interrogatories like this in my experience is that to the
09:47:27 7 extent that a party ultimately relies upon facts for their
09:47:38 8 defenses, as typically established by their experts, if
09:47:44 9 they haven't disclosed those facts, then you have an
09:47:49 10 argument under Rule 37 that they shouldn't be allowed to
09:47:53 11 rely upon them.

09:47:58 12 So the -- I think of these as largely defensive
09:48:03 13 interrogatories. I don't expect there to be anything more
09:48:09 14 in the answers than the Defendants think they will need to
09:48:13 15 rely upon. But in any event, I'll --

09:48:18 16 MR. HALVERSON: And that's entirely fine. If the
09:48:20 17 answer is either nothing or a brief blurb from a
09:48:24 18 conversation that Yealink intends to have a fact witness
09:48:29 19 present at trial or present to its expert, that's all that
09:48:32 20 needs to be in the response. But we're entitled to know
09:48:34 21 what those facts are before we see the expert report for
09:48:37 22 the first time after the close of fact discovery --

09:48:40 23 THE COURT: I agree. If the --

09:48:41 24 MR. HALVERSON: -- so we can probe into that.

09:48:43 25 THE COURT: -- if the Defendant relies upon facts

09:48:46 1 that were in the Defendants' possession and were not
09:48:48 2 disclosed in response to discovery, then you've got a
09:48:53 3 legitimate complaint.

09:48:54 4 MR. HALVERSON: And that's all we're trying to do
09:48:56 5 with those three.

09:48:56 6 THE COURT: All right. Then at this point, let me
09:49:02 7 hear from the Defendants as to these interrogatories, and
09:49:05 8 then we can move on to the next subject.

09:49:14 9 MR. YANG: Thank you, Your Honor.

09:49:14 10 Just real quick on the contention interrogatories.
09:49:22 11 I think Your Honor is absolutely right, if we have facts
09:49:25 12 that we rely on. And at this point, the substantial
09:49:28 13 deadline for document production is not until January and
09:49:32 14 fact discovery closes after that. If there are facts, we
09:49:36 15 do intend to supplement our responses.

09:49:39 16 What Barco is saying is, no, you have to do it
09:49:42 17 now. Your Honor, I don't think that is workable. So those
09:49:45 18 are the contention interrogatories.

09:49:47 19 THE COURT: Well, I'll tell you that I agree with
09:49:49 20 most of what you've said. But I do want to make it clear
09:49:53 21 that if you disclose facts late in the process at a time
09:50:02 22 when I think it was no longer reasonably available to the
09:50:09 23 Plaintiff to conduct discovery about those facts, you're
09:50:13 24 running the risk that they will be determined to have not
09:50:18 25 been timely disclosed.

09:50:20 1 But as long as you can tie your disclosure of
09:50:27 2 those facts to when you learned them or had reason to
09:50:32 3 disclose them, then, you know, you're right. It doesn't
09:50:37 4 have to be right now.

09:50:39 5 MR. YANG: Your Honor, I absolutely agree. You
09:50:42 6 know, we're not trying to wait until the last minute. And
09:50:45 7 some of these interrogatories are about 112 defenses, and
09:50:50 8 they have our -- they have our contentions of those.

09:50:53 9 But, yes, Your Honor, we do intend to supplement
09:50:55 10 when we have facts, and we will be reasonable about that so
09:50:59 11 they have an opportunity to explore those facts before the
09:51:03 12 expert reports.

09:51:03 13 Coming back to the other interrogatories, Your
09:51:06 14 Honor, one thing I do want to mention about this issue of
09:51:10 15 willfulness, the patents in this case issued in 2020. I
09:51:17 16 think the earliest patent, Your Honor, issued in
09:51:22 17 September -- on September 1st, 2020, and some of the
09:51:26 18 patents issued in 2022.

09:51:28 19 Now, Yealink's products, the WPP20, have been on
09:51:33 20 the market since 2018, and it has been under development
09:51:39 21 much before that.

09:51:41 22 WPP30 is just the new version of the same WPP20
09:51:48 23 product. It's been on the market since 2022, and it's been
09:51:52 24 in development, again, well before that.

09:51:56 25 The question of willfulness is not whether you are

09:51:59 1 aware of Barco, it's whether you are aware that Barco has
09:52:02 2 other patents, it's whether you have knowledge of the
09:52:08 3 asserted patents and what you have done after you gain that
09:52:11 4 knowledge.

09:52:12 5 So, Your Honor, this question of relevance of
09:52:14 6 years of development, years of technical documents, they're
09:52:19 7 not relevant to the issue of willfulness here. And both on
09:52:24 8 the question that Your Honor brought up, do Barco have
09:52:28 9 products that practice the asserted patents, well, Your
09:52:33 10 Honor, their patents have not been marked until 2022. And
09:52:36 11 I think --

09:52:37 12 THE COURT: You mean their products have not been
09:52:40 13 marked?

09:52:40 14 MR. YANG: They have -- they have not been marked.
09:52:41 15 Right. They have this constructive marking through the
09:52:44 16 website. But we have their interrogatory response that
09:52:48 17 say, I think one of the patents was marked -- only one
09:52:53 18 patent was marked in September of 2021. The others were
09:52:57 19 marked in 2023. And that is -- and that is their response
09:52:59 20 to Interrogatory No. 4 from Defendants.

09:53:03 21 So, again, this issue of willfulness, it has to be
09:53:07 22 tied to the asserted patents. And what Plaintiffs -- what
09:53:12 23 Barco is suggesting is they want to get to our documents --
09:53:17 24 all -- all of our research and development.

09:53:20 25 On the meet and confers, Your Honor, I offered, if

09:53:22 1 you want to take a deposition of one of our witnesses, we
09:53:25 2 can arrange that. If you want limited reasonable documents
09:53:29 3 that is proportional to the needs of the case to this
09:53:33 4 question of willfulness, we can arrange that. But they say
09:53:35 5 they want all R&D documents. They want all technical
09:53:39 6 documents.

09:53:39 7 THE COURT: Yealink's position would be much
09:53:43 8 stronger if Yealink had produced what Yealink contended was
09:53:48 9 a sufficient number of technical documents for the
09:53:55 10 Plaintiff to understand the operation and the development
09:54:01 11 of -- of the accused products, but it's not a persuasive
09:54:10 12 position to me to say we're not producing any documents
09:54:13 13 because you're asking for too much.

09:54:14 14 MR. YANG: Your Honor, we -- we do want to find a
09:54:18 15 reasonable approach to this. And our position is not that
09:54:21 16 we will not produce documents, and this is something we
09:54:26 17 discussed earlier. We had -- it's been our position that
09:54:29 18 infringement is out of play. But if we have to produce
09:54:31 19 documents -- and, again, the deadline is January, and we
09:54:34 20 will produce documents --

09:54:34 21 THE COURT: You know --

09:54:36 22 MR. YANG: -- as long as it's reasonable.

09:54:38 23 THE COURT: -- let me on the record just disabuse
09:54:41 24 you of the notion that you don't have to produce documents
09:54:43 25 until the deadline for substantial completion. That is a

09:54:48 1 backstop. You have an obligation to produce documents, as
09:54:55 2 requested, on a timely basis. And what I'm hearing and
09:55:01 3 seeing in the record is that so far, you haven't produced
09:55:04 4 any of your technical documents.

09:55:06 5 MR. YANG: We have produced some, but we will
09:55:08 6 produce more, Your Honor. And that's not my position that
09:55:10 7 we will wait until the last day. All I'm saying is they
09:55:14 8 want us to produce all the documents now.

09:55:16 9 THE COURT: Yeah.

09:55:17 10 MR. YANG: We need to -- we will produce. Again,
09:55:20 11 they want all documents, Your Honor.

09:55:22 12 THE COURT: You know, you didn't even file the
09:55:26 13 second amended answer until September 20, which was long
09:55:34 14 after they requested production.

09:55:36 15 How could you have felt that technical documents
09:55:41 16 were irrelevant long before you filed this admission of
09:55:47 17 infringement?

09:55:47 18 MR. YANG: Your Honor, we have been in a meet and
09:55:52 19 confer process before that. Barco understands that Yealink
09:55:56 20 was working to collect all documents. It's a huge company.
09:56:00 21 And these are, again, international discovery that does
09:56:04 22 take some time.

09:56:06 23 But, Your Honor --

09:56:07 24 THE COURT: Where are the documents that you were
09:56:09 25 saying during the meet and confer process months ago were

09:56:14 1 being reviewed for production?

09:56:17 2 MR. YANG: All the documents are located in China
09:56:19 3 in Yealink's headquarters. They're foreign language
09:56:23 4 documents. And it does take time. So we came in as
09:56:26 5 counsel in May, and it takes some time for us to review,
09:56:29 6 understand everything.

09:56:30 7 But, Your Honor, again, we're not trying to just
09:56:33 8 say we're not producing documents. And it's really during
09:56:37 9 that meet and confer process we told them we need time.
09:56:40 10 And then Yealink decided -- it was a hard decision, but
09:56:44 11 Yealink decided to admit infringement of the claims.

09:56:47 12 Well, Your Honor, if the Court orders, we will
09:56:51 13 produce documents. We're not waiting until the last day.
09:56:53 14 That's certainly not our position. But what I would like
09:56:58 15 some guidance is we just need to understand the scope,
09:57:02 16 because, again, they're asking for all documents. And I'm
09:57:04 17 struggling to understand the relevance of years of R&D
09:57:08 18 documents, of years of technical documents. They say
09:57:12 19 willful. I'm not sure that works because the patents have
09:57:15 20 been issued so late.

09:57:16 21 THE COURT: Well, I don't think the willfulness
09:57:19 22 allegation is what's driving their entitlement to
09:57:25 23 discovery. I think the fact is that the admissions in the
09:57:31 24 second amended answer are not sufficient to take the
09:57:38 25 technical discovery off the table. The limitation of the

09:57:44 1 admission to only claims that are being challenged in the
09:57:51 2 IPR certainly explains to me that why the Plaintiffs are
09:57:59 3 not willing to forego technical discovery. And so I don't
09:58:06 4 think they're just being unreasonable. I think they have a
09:58:10 5 legitimate litigation interest in being able to prove
09:58:14 6 infringement of the other claims that are clearly set out
09:58:19 7 in their infringement contentions and are not subject to
09:58:28 8 IPR.

09:58:28 9 MR. YANG: Okay, Your Honor. So I guess what we
09:58:35 10 would like to have is just some guidance on the -- maybe
09:58:38 11 the temporal scope, because, again, we have a lot of
09:58:41 12 documents. And we have been trying to work -- we really
09:58:44 13 have been trying to work with Plaintiffs to understand,
09:58:47 14 okay, what is it exactly that you need and what is
09:58:52 15 proportional?

09:58:53 16 All we're hearing right now is all documents, all
09:58:56 17 documents. We want all R&D. We want all technical
09:59:01 18 documents. We want all source code.

09:59:03 19 So this, Your Honor -- it would be great if we
09:59:07 20 could get some guidance and some clarity so we can get the
09:59:10 21 Plaintiffs the documents that they need.

09:59:11 22 THE COURT: You know, typically the way this works
09:59:14 23 when it's being engaged in in good faith is that the
09:59:22 24 Defendant will produce what it contends are documents
09:59:28 25 sufficient to understand the operation of the accused

09:59:32 1 products. That's what is set out in the discovery order
09:59:38 2 and based on the local rules.

09:59:40 3 And if the Plaintiff looks at those documents and
09:59:45 4 says, well, we're missing this, that, and the other, then
09:59:51 5 we engage in the process that way.

09:59:51 6 MR. YANG: Okay.

09:59:54 7 THE COURT: But so far, you have not produced
09:59:59 8 anything from your client that is even arguably sufficient
10:00:05 9 to understand the operation of the accused products.
10:00:08 10 That's what I'm hearing.

10:00:09 11 If you think you have, tell me about it.

10:00:11 12 MR. YANG: We have produced some. But admittedly,
10:00:14 13 Your Honor, there are certain more documents we can
10:00:16 14 produce.

10:00:16 15 One thing, too, these are -- these products are
10:00:20 16 all or they have been publicly available, and I think
10:00:25 17 Plaintiffs have their hands on these products, and I think
10:00:27 18 they have --

10:00:28 19 THE COURT: You know, my answer to that is then
10:00:30 20 produce those. It should be no burden to -- if you say
10:00:35 21 these are publicly available and they're sufficient to
10:00:38 22 understand, then just produce them.

10:00:40 23 MR. YANG: I think they already have them, Your
10:00:42 24 Honor. But, you know, we can look into -- if they're
10:00:45 25 requesting products that I think they already have, but we

10:00:49 1 can do that, Your Honor.

10:00:52 2 THE COURT: Well, you are saying that you need
10:00:54 3 some guidance on scope.

10:00:55 4 MR. YANG: Right.

10:00:56 5 THE COURT: And you mentioned temporal scope.
10:00:58 6 Tell me what you're proposing.

10:01:00 7 MR. YANG: Well, these patents, Your Honor, have
10:01:03 8 been issued in 2020 and then on. I think this timeline
10:01:08 9 that we looked at -- so if they want our information, our
10:01:13 10 documents under development on the WPP and the WPP --
10:01:17 11 WPP20, WPP30 products, I think that is a reasonable
10:01:24 12 timeline, Your Honor. And I think that's -- we mentioned
10:01:27 13 this 2018. We have talked about 2018, and we have in our
10:01:32 14 are interrogatory responses providing information from
10:01:34 15 2018. That may be a reasonable timeline that we can work
10:01:37 16 with.

10:01:39 17 THE COURT: All right. So your proposal is that
10:01:44 18 the sales data is where the Plaintiff mentioned 2018.

10:01:49 19 Are you saying that 2018 forward would also be a
10:01:54 20 reasonable time frame for the design and development
10:01:58 21 documents?

10:01:59 22 MR. YANG: I want to -- I believe that's probably
10:02:02 23 workable, Your Honor. Your Honor, I just want to
10:02:04 24 double-check that with my client. I don't want to misspeak
10:02:07 25 when development has started.

10:02:09 1 And on the damages timeline, sales information, I
10:02:13 2 don't believe for that 2018 is reasonable given that the
10:02:16 3 patents have not issued until September of 2020. I think
10:02:20 4 for sales information, 2020 to the day we withdrew the WPP
10:02:28 5 products from the U.S. market, that is a more reasonable
10:02:31 6 time frame for sales information.

10:02:40 7 THE COURT: I understand your position on that.

10:02:48 8 And what other temporal issues do you want to
10:02:53 9 discuss?

10:02:53 10 MR. YANG: I think those are the big ones, Your
10:02:57 11 Honor. And if I may just really quickly on the other
10:03:00 12 interrogatories my colleague has mentioned here. On No. 4,
10:03:03 13 if they just want license agreements, if they want
10:03:06 14 settlement agreements, I think that is something that is
10:03:09 15 reasonable and that we can look into. I mean, right now,
10:03:12 16 that's not the way the interrogatory is drafted.

10:03:15 17 On No. 5, we have identified people that they've
10:03:17 18 asked for.

10:03:18 19 If they're limiting No. 7 to three people, I think
10:03:22 20 that's reasonable. Because right now No. 7 is drafted to
10:03:26 21 ask for each person with knowledge. But if we're limiting
10:03:32 22 those to three, then that is something we can do.

10:03:35 23 THE COURT: All right. And so I guess what I am
10:03:47 24 inclined to say about the design and development documents
10:03:55 25 is that the Defendant would be ordered to produce

10:04:00 1 sufficient technical documents to understand the design and
10:04:08 2 development of those products.

10:04:09 3 I'm definitely never going to order all documents
10:04:13 4 that relate to some broad issue like that, but I do think
10:04:20 5 that it's not unreasonable to order something that goes
10:04:27 6 back before the issuance of the patents in a case like
10:04:32 7 this, especially where the Plaintiff contends that it had
10:04:38 8 products on the market that -- before the issuance of these
10:04:43 9 patents that reflected that technology, and, therefore, if
10:04:51 10 there is evidence that the Defendant was relying upon
10:04:58 11 that -- the Plaintiffs' technology, as demonstrated in its
10:05:04 12 products even before the patents issued, that could be
10:05:06 13 relevant to infringement.

10:05:08 14 But I also want to comment on Rule 33(d). Going
10:05:17 15 forward in this case, you should limit your reliance on
10:05:24 16 Rule 33(d) to situations where you think you really can
10:05:30 17 show me that the Plaintiff is as able to look at those
10:05:37 18 documents and locate the relevant information as your
10:05:45 19 employees would be, and that is a much narrower
10:05:50 20 circumstance than these answers to interrogatories reflect.

10:05:57 21 And I understand that they're in the past and --
10:06:03 22 but I would caution you and I will note that you have been
10:06:11 23 cautioned not to rely upon Rule 33(d) as expansively as
10:06:16 24 these responses do.

10:06:19 25 MR. YANG: And I understand, Your Honor. And,

10:06:22 1 obviously, that goes both ways, Your Honor, right, because
10:06:25 2 I think Plaintiffs have the same reliance on Rule 33(d) for
10:06:30 3 a number of interrogatories. But we can certainly use
10:06:33 4 33(d) sparingly and really in the -- under the appropriate
10:06:36 5 circumstances.

10:06:37 6 THE COURT: Well, I guarantee you, I'll apply it
10:06:39 7 the same way both directions --

10:06:43 8 MR. YANG: Thank you, Your Honor.

10:06:43 9 THE COURT: -- if anything comes up with them, as
10:06:46 10 well. It's not intended to be a substitute for a definite
10:06:52 11 answer.

10:06:53 12 MR. YANG: I agree, Your Honor. I understand.

10:06:55 13 And just if I may, Your Honor, I'm not sure if
10:06:58 14 Plaintiffs have alleged anywhere in this case that they
10:07:01 15 have products that practice the technology of the asserted
10:07:06 16 patents before the patent's issuance. I think I heard that
10:07:10 17 for the first time today.

10:07:11 18 And I understand where the Court's coming from, if
10:07:14 19 that is -- really is the case. If I may just -- if
10:07:16 20 Plaintiffs can make that showing, I think that would be a
10:07:19 21 lot more helpful for us to understand, again, the temporal
10:07:25 22 time scope.

10:07:25 23 THE COURT: Well, I don't -- I'm not suggesting
10:07:27 24 that there is an admission that they had a product on the
10:07:33 25 market that practiced the patents before the issuance. But

10:07:36 1 what I am suggesting is that I look at this case
10:07:39 2 differently because they're competitors with products in
10:07:44 3 the marketplace than I would if we simply had a
10:07:51 4 non-practicing entity that had a patent and was seeking to
10:07:56 5 enforce it.

10:07:57 6 MR. YANG: I understand, Your Honor.

10:07:59 7 THE COURT: Okay. Do you have anything else that
10:08:05 8 you want to say on these interrogatories?

10:08:11 9 MR. YANG: Let me just look through my notes, Your
10:08:13 10 Honor. No, I think that addresses the questions we have.

10:08:22 11 Of course, I think -- maybe we can talk about that
10:08:25 12 later, Your Honor, is the timing of the productions. Like
10:08:29 13 I said, I think for Yealink, we do need some time to review
10:08:35 14 everything, but we can certainly do that as quickly as --
10:08:38 15 as quickly as we can.

10:08:40 16 THE COURT: So what would you ask in terms of time
10:08:46 17 in which to supplement your answers to the interrogatories
10:08:50 18 that we've discussed?

10:08:51 19 MR. YANG: Oh, I think for the interrogatories --
10:08:56 20 so that would be -- Your Honor, if I'm understanding, that
10:08:59 21 would be Nos. 1, 8, 4, and 7.

10:09:03 22 THE COURT: That's right.

10:09:04 23 MR. YANG: Okay. Your Honor, we can -- you know,
10:09:16 24 with the holidays and everything coming up, but I think we
10:09:19 25 can probably supplement those interrogatory responses in

10:09:24 1 three-weeks' time. We just need to understand -- we need
10:09:24 2 to go back and look at all the products and look at the
10:09:27 3 development.

10:09:27 4 THE COURT: You said two weeks?

10:09:29 5 MR. YANG: Three weeks, Your Honor.

10:09:30 6 THE COURT: Three weeks?

10:09:30 7 MR. YANG: Three, yes.

10:09:31 8 THE COURT: All right. I'll note that that's your
10:09:34 9 request. Thank you.

10:09:36 10 MR. YANG: Thank you, Your Honor.

10:09:38 11 I think that's everything on the interrogatories,
10:09:40 12 unless the Court has further questions for me.

10:09:43 13 THE COURT: All right. Thank you, Mr. Yang.

10:09:44 14 I'll let Mr. Halverson speak to those issues, as
10:09:49 15 well.

10:09:50 16 MR. YANG: Thank you.

10:09:50 17 MR. HALVERSON: Just very briefly, Your Honor, and
10:09:56 18 then I'm happy to address any questions.

10:09:58 19 But what I heard in that presentation is we have a
10:10:01 20 lot of docs. We have a lot of documents, but it's going to
10:10:05 21 take us a long time to look at them, which really begs the
10:10:09 22 question: How are you able to rely on 33(d)?

10:10:12 23 What's in those documents that led you to admit to
10:10:16 24 infringement after 10 months of litigation, while holding
10:10:22 25 out for those full 10 months that you don't infringe?

10:10:25 1 And so these questions about what is the temporal
10:10:27 2 limitation or how can we limit the document production are
10:10:31 3 particularly concerning to Barco because we're not sure
10:10:35 4 what's trying to be hidden from production here.

10:10:37 5 But the fact that this case has been pending for a
10:10:39 6 year and the production and the responses are as small as
10:10:42 7 they are, and we keep hearing excuses about how Yealink is
10:10:45 8 trying to be reasonable, Yealink has been trying to be
10:10:49 9 reasonable since June, not to mention the fact that the
10:10:52 10 discovery order went in in April.

10:10:54 11 At no point in time are they doing the reasonable
10:10:57 12 thing of producing a reasonable amount of documents for the
10:11:00 13 relevant issues in this case.

10:11:02 14 Now, as far as the timing of three weeks, we have
10:11:04 15 no concern with that. As far as the other limitations I
10:11:07 16 think that were discussed about the productions, they all
10:11:10 17 seem very reasonable. However, we're concerned that there
10:11:14 18 is an effort to hide certain information from production in
10:11:19 19 this case. And I'm not sure how best to mitigate that
10:11:22 20 going forward.

10:11:24 21 THE COURT: Well, we shall see. I will limit the
10:11:30 22 sales data to January 1, 2019 forward. I think that the
10:11:38 23 Plaintiff is entitled to some sales information before the
10:11:44 24 issuance of the patents in order to assess the accuracy of
10:11:51 25 the information that they're getting thereafter. But,

10:11:57 1 otherwise, I'll proceed with the interrogatories in the
10:12:00 2 manner that we've discussed.

10:12:05 3 And what else do you want to discuss on your
10:12:09 4 motion besides the interrogatories?

10:12:11 5 MR. HALVERSON: Interrogatories and document
10:12:16 6 production? Are those -- are those hand-in-hand?

10:12:20 7 THE COURT: And I guess -- I guess that is the
10:12:30 8 case, frankly.

10:12:34 9 MR. HALVERSON: Ostensibly -- so the claims really
10:12:40 10 relate to how certain information is conveyed from the
10:12:43 11 user's machine to this dongle and then up to something --
10:12:46 12 some other device, whether or not the base station is
10:12:48 13 affirmatively claimed.

10:12:49 14 And so as part of that, and we haven't gotten into
10:12:53 15 this discussion yet, but part of the obligation of
10:12:55 16 discovery under the local rules would include source code.
10:12:57 17 And so as part of that, we would -- we would ask it be --
10:13:04 18 Defendant also include that in its production in
10:13:07 19 pursuant -- or in accordance with the protective order in
10:13:09 20 this case.

10:13:11 21 They've not withheld that or said that they won't
10:13:14 22 do that, but given the issues that we've had so far in
10:13:18 23 getting what would be otherwise reasonable discovery, I
10:13:20 24 just wanted to put that on the record.

10:13:21 25 THE COURT: Have you made a request to review

10:13:24 1 source code yet?

10:13:25 2 MR. HALVERSON: There is a request in the
10:13:28 3 infringement contentions. We have not sent an express
10:13:31 4 letter or otherwise communicated in -- in a separate
10:13:36 5 communication that we want source code. However, pursuant
10:13:39 6 to the local rules in this district where you can identify
10:13:42 7 certain elements that you intend to supplement with source
10:13:45 8 code, we've done that in our contentions. Whether or
10:13:48 9 not -- sorry, go ahead.

10:13:50 10 THE COURT: So in your contentions, you have
10:13:53 11 alleged that certain limitations would be satisfied through
10:13:58 12 source code?

10:13:59 13 MR. HALVERSON: That's correct, Your Honor.

10:14:01 14 THE COURT: All right.

10:14:02 15 MR. HALVERSON: And I don't -- I don't remember
10:14:03 16 the rule off the top of my head, but there is something in
10:14:08 17 there.

10:14:08 18 THE COURT: Well, I would expect that y'all will
10:14:11 19 be able to work out an understanding about source code
10:14:15 20 inspection, but I don't think it's fair to put the
10:14:21 21 Defendants to addressing that now if it hasn't been
10:14:25 22 otherwise raised.

10:14:27 23 MR. HALVERSON: Understood, Your Honor.

10:14:28 24 THE COURT: Is there anything else in your motion
10:14:30 25 that wouldn't be addressed by what we've done?

10:14:34 1 MR. HALVERSON: No.

10:14:40 2 THE COURT: All right. Thank you, Mr. Halverson.

10:14:44 3 Mr. Yang, we have been focused on interrogatory
10:14:48 4 answers. I think it is reasonable to understand that
10:14:53 5 the production of documents will be governed by the same
10:15:00 6 scope.

10:15:01 7 Is -- do you have other issues to raise about
10:15:06 8 document production?

10:15:06 9 MR. YANG: I think the same -- I think that makes
10:15:10 10 sense, Your Honor, as far as the scope goes.

10:15:12 11 We will try to get the documents ready because,
10:15:16 12 again, they are located in China. We do need to review
10:15:22 13 them. They're in a foreign language. But we will do that.
10:15:25 14 We can do that on a rolling basis. We can do that as
10:15:28 15 quickly as we can, Your Honor.

10:15:29 16 THE COURT: All right.

10:15:29 17 MR. YANG: On the source code, if they make the
10:15:31 18 request, that is something we can look into.

10:15:34 19 Oh, and as far as documents go, you know, we want
10:15:36 20 to produce documents that are sufficient for them to
10:15:40 21 understand the accused products. I think a lot of that,
10:15:43 22 Your Honor, may be addressed by producing samples. So we
10:15:46 23 can look into that, as well, so they have the products they
10:15:50 24 can look into, they can use, they can disassemble to make
10:15:54 25 their claim. So that may be something we can do, as well,

10:16:01 1 Your Honor.

10:16:01 2 THE COURT: If the Plaintiffs are agreeable to
10:16:03 3 that, I certainly have no problem with you substituting
10:16:07 4 samples for a certain amount of document production.

10:16:10 5 But at this point, the order is to produce the
10:16:15 6 documents.

10:16:15 7 MR. YANG: Okay. I understand, Your Honor. And
10:16:17 8 we will do that as quickly as practical.

10:16:20 9 The one thing I want to mention, so if there is
10:16:25 10 no -- at this point it seems that there's no effect on
10:16:29 11 the admission of infringement on the independent claims, I
10:16:31 12 just want to get an understanding of going forward,
10:16:35 13 especially when we go to trial in September -- I mean, are
10:16:40 14 the Plaintiffs going to get up, rely on that, and get the
10:16:45 15 damages for those we're expecting to still prove
10:16:49 16 infringement of every dependent claim?

10:16:51 17 THE COURT: You know, if the Plaintiffs decide to
10:16:54 18 assert additional claims beyond those that you have
10:16:59 19 admitted infringement of, then they'll be required to prove
10:17:03 20 infringement of those additional claims.

10:17:04 21 MR. YANG: Okay. Okay.

10:17:07 22 THE COURT: If -- if they are satisfied with
10:17:14 23 relying only on infringement of the claims that you've
10:17:18 24 admitted infringement of, then I would not expect that the
10:17:26 25 proof of infringement beyond that admission would be

10:17:30 1 relevant. But at this point, we're a long way from that
10:17:35 2 and --

10:17:35 3 MR. YANG: I understand, Your Honor. And
10:17:37 4 admittedly, this is not something I have experienced
10:17:40 5 before. This is a unique case, given that admission. But
10:17:43 6 I appreciate the clarification.

10:17:45 7 THE COURT: All right. All right. Well, I will
10:17:50 8 issue an order that memorializes what we've done here and
10:17:57 9 hope that the parties are able to resolve further issues.
10:18:02 10 If you're not able to, if there is something that you think
10:18:06 11 is amenable just to a phone call, I'm willing to take up
10:18:12 12 issues around the fringes on that basis.

10:18:18 13 But if somebody thinks that we need to do it based
10:18:20 14 on a motion and on a record, I'm happy to do it that way,
10:18:24 15 as well.

10:18:25 16 MR. YANG: Your Honor, just one last thing. I
10:18:27 17 apologize.

10:18:29 18 We would expect Plaintiffs to also produce
10:18:32 19 documents along similar schedules, because in this case,
10:18:35 20 they also have not produced a lot of documents about their
10:18:38 21 products, about their financials.

10:18:40 22 THE COURT: Well, I'm -- I certainly will handle
10:18:46 23 issues raised by your side in the same fashion, but I'm not
10:18:53 24 going to simply order them off the cuff to do something.

10:18:56 25 MR. YANG: That's not what I'm asking. I'm saying

10:18:59 1 I think we have an expectation going forward. But thank
10:19:02 2 you, Your Honor.

10:19:02 3 THE COURT: All right. Mr. Halverson?

10:19:04 4 MR. HALVERSON: Briefly, Your Honor. So
10:19:09 5 throughout most of today, as far as discussions about when
10:19:12 6 document production would happen once we got to that point
10:19:18 7 in today's argument, Yealink had said three weeks. Just
10:19:21 8 recently they said we would do it on a rolling basis. And
10:19:25 9 so this rolling basis has been the issue all along in this
10:19:28 10 case. We need the documents.

10:19:32 11 Substantial completion of discovery is in January,
10:19:37 12 three months from now, which is in early December --
10:19:39 13 mid-December. And so whether or not there is a rolling
10:19:43 14 basis is going to be a bit of a problem as we get into
10:19:46 15 report drafting and the close of fact discovery, which is
10:19:49 16 coming very quickly.

10:19:51 17 THE COURT: You know, a rolling basis tells me
10:19:53 18 that if they have them available in one week, they'll
10:19:56 19 produce what they have in one week. If they have some
10:20:00 20 others in two weeks, they'll produce those. But the
10:20:04 21 order will be that they make the production within three
10:20:07 22 weeks.

10:20:08 23 MR. HALVERSON: Perfect.

10:20:09 24 THE COURT: And if they can do that on a rolling
10:20:12 25 basis, that's fine with me.

10:20:14 1 MR. HALVERSON: Sounds good. Thank you, Your

10:20:15 2 Honor.

10:20:15 3 THE COURT: All right. All right. Thank you. We

10:20:19 4 are adjourned.

10:20:21 5 COURT SECURITY OFFICER: All rise.

10:20:23 6 (Hearing concluded at 10:20 a.m.)

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CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of my ability.

/S/ Shelly Holmes
SHELLY HOLMES, CSR, TCRR
CERTIFIED SHORTHAND REPORTER
State of Texas No.: 7804
Expiration Date: 10/31/2025

12/2/2024
Date